



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,737	09/15/2000	KIMBO MUNDY	BDE-001CN (431/6)	2466
23370	7590	05/06/2005	EXAMINER	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			COLBERT, ELLA	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/662,737

**Applicant(s)**

MUNDY ET AL.

**Examiner**

Ella Colbert

**Art Unit**

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-33, 35-37, 39-44 and 47-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 2-33, 35-37, 39-44, and 47-49 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 2-33, 35-37, 39-44, and 47-49 are pending in this communication filed 02/09/05 entered as RCE and Amendment. Claims 2-7, 9, 10, 12-19, 21, 22, 24-30, 32, 33, 35-37, 39, 40, and 44 have been amended, claims 47-49 have been added, and claims 34, 38, 45, and 46 have been canceled.

### ***Request For Continued Examination***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/09/05 has been entered.

### ***Claim Objections***

3. Claim 33 is objected to because of the following informalities: Claim 33 depends on canceled claim 1. For examination purposes, it is presumed claim 33 depends on claim 47. Appropriate correction is required.

### ***Election/Restrictions***

4. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 47 and 2-32 are drawn to a method for aggregating information, receiving a specification of a class of items by a selected shopper, each enterprise offering items for exchange over a network, storing information about the items,

responding to the specification of the class of items by the shopper, collecting information about a selected item, storing the collected information from the enterprises, and providing the information collected from the enterprises to a selected shopper, classified in class 705, subclass 26.

II. Claims 48 and 35-37 are drawn to a method for aggregating auction information from auction sites, providing a host site in communication with the auction sites, storing information about the items it offers in an auction database and interacting directly with bidders, receiving a specification of a class of items by a selected bidder, responding to the specification of the class of items by the bidder, searching the auction sites for items, collecting information about a selected item within the class from at least two of the auction sites, storing the information collected from the auction sites, and providing the stored information to a selected bidder, classified in class 705, subclass 37.

III. Claims 49 and 39-44 are drawn to a method for searching for products or services offered for purchase by auction sites, providing a host site in communication with the auction sites, each auction site auctioning products or services, storing information about the products or services it offers, receiving a request from a selected bidder, determining the selected bidder, searching the auction sites for selected products or services, collecting information about a first and a second selected product or service, and storing the collected information, classified in class 705, subclass 37.

Inventions I, II, and III are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because Group I has separate utility such as aggregating information, receiving a specification of a class of items by a selected shopper, each enterprise offering items for exchange over a network, storing information about the items, responding to the specification of the class of items by the shopper, collecting information about a selected item, storing the collected information from the enterprises, and providing the information collected from the enterprises to a selected shopper. The subcombination Group II has separate utility such as aggregating auction information from auction sites, providing a host site in communication with the auction sites, storing information about the items it offers in an auction database and interacting directly with bidders, receiving a specification of a class of items by a selected bidder, responding to the specification of the class of items by the bidder, searching the auction sites for items, collecting information about a selected item within the class from at least two of the auction sites, storing the information collected from the auction sites, and providing the stored information to a selected bidder and the search for Group I is not required for Group II. Group III has separate utility such as searching for products or services offered for purchase by auction sites, providing a host site in

Art Unit: 3624

communication with the auction sites, each auction site auctioning products or services, storing information about the products or services it offers, receiving a request from a selected bidder, determining the selected bidder, searching the auction sites for selected products or services, collecting information about a first and a second selected product or service, and storing the collected information and the search for Group I and Group II is not required for Group III.

Inventions Group I and Group II and Group III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group II has separate utility such as aggregating auction information from auction sites, providing a host site in communication with the auction sites, storing information about the items it offers in an auction database and interacting directly with bidders, receiving a specification of a class of items by a selected bidder, responding to the specification of the class of items by the bidder, searching the auction sites for items, collecting information about a selected item within the class from at least two of the auction sites, storing the information collected from the auction sites, and providing the stored information to a selected bidder. Group I has separate utility such aggregating information, receiving a specification of a class of items by a selected shopper, each enterprise offering items for exchange over a network, storing information about the items, responding to the specification of the class of items by the shopper, collecting information about a selected item, storing the collected information from the enterprises,

Art Unit: 3624

and providing the information collected from the enterprises to a selected shopper. See MPEP § 806.05(d).

**Species:**

The Applicants' are required to elect among the following species depending upon election of the one of the aforementioned Inventions:

If invention I is elected, one of the following species of the generic invention indicated in the bracket must be elected.

Claims 2-4, 6-9 and (10 or 11 and 12) and 13-15 and (17 and 18 and 19 or 20 and 21 or 22 or 23 and 24) and 25 and (26-28 or 29-33).

If invention II is elected, one of the following species of the generic invention indicated in the bracket must be elected.

Claims 35 and 36 and (37).

If invention III is elected, one of the following species of the generic invention indicated in the bracket must be elected.

Claims 39 and 40 and (41 and 42 or 43 and 44).

Applicants' are required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if not generic claim is held to be allowable. Currently claims 47, 48, and 49 are generic.

Applicants' are advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An

Art Unit: 3624

argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon allowance of a generic claim, Applicants' will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all of the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicants' must indicate which are readable upon the elected species. MPEP 809.02(a).

Should Applicants' traverse on the ground that the species are not patentably distinct, Applicants' should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

In the event Applicants' elect the aforementioned species, Applicants' are further required to provide where support in the descriptive portion of the specification may be found to support such an election.

### ***Inquiries***


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday-Thursday, 6:30AM-5:00PM.



Art Unit: 3624

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E. Colbert  
April 30, 2005